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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,108	07/22/2005	Tomohiko Asakage	275022US3XPCT	4376
22850	7590	12/29/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
WILHELM, TIMOTHY				
ART UNIT		PAPER NUMBER		
3616				
NOTIFICATION DATE		DELIVERY MODE		
12/29/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/543,108

Applicant(s)

ASAKAGE ET AL.

Examiner

Timothy D. Wilhelm

Art Unit

3616

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4 and 9-11 is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action was made in response to an amendment filed by Applicant on 9/24/2008.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loraas et al (5,931,254) in view of Perry (4,381,042). Loraas et al disclose a construction machine comprising a hydraulic actuator driven by discharge oil from a hydraulic pump adapted to operate using an engine as a power source, an operator presence sensor 27 for detecting an access state of getting-on or getting-off of an operator, and control means adapted to lockout the hydraulic system when said operator presence sensor detects the getting-off of the operator. Loraas et al disclose the present invention except for the system automatically stopping the engine after a preset allowance time has passed. Perry teaches a system for shutting down a motor vehicle engine upon elapse of a predetermined amount of time after selected sensed input conditions are detected during which the system gives a pre-warning to the vehicle operator prior to shutting off the engine. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shutdown system of Loraas et al with

the teaching of Perry's predetermined amount of time to give the operator ample time to correct the detected condition.

Allowable Subject Matter

3. Claims 1,3,4, and 9-11 are allowed.

Response to Arguments

4. Applicant's arguments filed 9/24/2008 have been fully considered but they are not persuasive. The prior art references given to Loraas et al and Perry are analogous to one another by the fact that both references disclose a means of shutting down a system of a vehicle, whether it be a construction vehicle or a delivery vehicle. While Loraas discloses locking out a hydraulic system of a construction vehicle when the system has detected the getting-off of a vehicle operator, an inventor in the mindset of improving upon this design may look for other essential and potentially dangerous systems of the vehicle to lockout should the system detect that no operator is present. With the engine being the main system of any vehicle, it would be obvious, therefore, to one skilled in the art to want to shut off the engine, as well as the hydraulic system of Loraas should no operator be detected for a certain amount of time with the teaching of Perry's engine shutdown system, whether it be to simply keep the vehicle from idling and emitting fumes or to ensure the safety of others around the vehicle by stopping any means of the vehicle functioning altogether. While one reference may teach only locking out of a system of the vehicle, it is not beyond the scope of obviousness to add

a second similar function through a teaching reference to the primary reference, as is the case in the immediate application. Also, because Loraas discloses that construction vehicles "commonly have an engine which drives the hydraulic pump to...power hydraulic traction motors" (column 1, lines 37-41), it further aids the argument for obviousness in that one of ordinary skill in the art would have recognized that to lockout a hydraulic system, a simple way would be to shutdown the engine, such as is taught by Perry.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-

272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3616

Timothy D Wilhelm
Examiner
Art Unit 3616

/Timothy D Wilhelm/
December 22, 2008